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**Finance Committee**

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**HB 2756**

**Brief Description:** Providing sales and use tax exemptions for certain medical and mobility enhancing equipment.

**Sponsors:** Representatives Hunter, Roach, Lovick, Woods, Wallace, Kilmer, Kessler, Williams, Nixon, Orcutt, McDonald, McCoy, Dickerson and Schindler.

**Brief Summary of Bill**

- Exempts certain mobility enhancing and durable medical equipment from sales and use taxes.
- Limits the existing exemption for prosthetic equipment to equipment of the type covered under the Medicare and Medicaid programs.

**Hearing Date:** 1/25/06

**Staff:** Mark Matteson (786-7145).

**Background:**

*Retail sales and use taxes.* The retail sales tax applies to the selling price of tangible personal property and of certain services purchased at retail. The tax base includes goods and certain services purchased at retail. The tax is levied at a 6.5 percent rate by the state. Cities and counties may levy a local tax at a rate up to a maximum of 3.1 percent; currently, local rates levied range from 0.5 percent to 2.4 percent. Sales tax is paid by the purchaser and collected by the seller.

The use tax is imposed on items used in the state which were not subject to the retail sales tax, and includes purchases made in other states and purchases from sellers who do not collect Washington sales tax. The state and local rates are the same as those imposed under the retail sales tax.

Major items exempt from sales and use tax include food for human consumption, motor vehicle fuel, utility services, professional services (e.g., medical, legal), certain business services (e.g. accounting, engineering), and items that become a component part of another product for sale. Examples of family consumer expenditures that are medically-related and exempt from retail sales and use taxes include:

- prescription drugs;
- insulin;

- medically prescribed oxygen and associated systems;
- nebulizers;
- prescription orthotic or prosthetic devices;
- prescription eyeglasses and frames; and
- hearing instruments.

Sales of other durable medical equipment and mobility enhancing equipment are specifically excluded from any exemption. Mobility enhancing equipment is equipment that is primarily and customarily used to provide or increase the ability to move from one place to another and that is appropriate for use either in the home or a motor vehicle. Durable medical equipment is equipment used to serve a medical purpose, that can withstand repeated use, and is generally not useful in the absence of disease or injury. Durable medical equipment and mobility enhancing equipment are mutually exclusive categories.

*Medicare and Medicaid coverage of medical expenditures.* The Centers for Medicare and Medicaid Services (CMS) is the federal agency that administers the Medicare program as well as the federal portion of Medicaid. Among other functions, CMS issues determinations of coverage under the programs for its beneficiaries. In May 2005, for example, CMS issued a national coverage determination for mobility assistive equipment (MAE) based on a function-based determination of medical necessity. Mobility assistive equipment includes items such as wheelchairs, scooters, crutches, and other aids that assist persons with mobility deficits sufficient to impair their participation in mobility-related activities of daily living such as toileting, feeding, dressing, grooming, and bathing in customary locations in the home.

**Summary of Bill:**

Sales of mobility enhancing equipment and of durable medical equipment for home use only are exempt from retail sales tax, if the equipment is of the type covered under the Medicare and Medicaid programs and the equipment is provided by a licensed physician or other person with the authority under state law to prescribe, fit, or furnish such equipment.

The exemption for prosthetic devices is limited to only those devices that are of the type covered under the Medicare and Medicaid programs.

A use tax exemption is provided for durable medical equipment for home use only.

**Appropriation:** None.

**Fiscal Note:** Requested on January 12, 2006.

**Effective Date:** The bill takes effect on July 1, 2006.